

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code Part 495. (This is a GIL).

November 18, 2005

Dear Xxxxx:

This letter is in response to your letter dated June 1, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

We do not have enough information to issue a private letter ruling. The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

After a recent audit of our books by the Illinois Department of Revenue to determine the amount of Excise Tax that is due the State of Illinois, I would like to request a private letter ruling on the application of Telecommunications Excise Tax in Illinois. To the best of my knowledge, the Illinois Department of Revenue has not previously ruled on the same or a similar issue for ABC.

As a company, ABC specializes in the supply of deployable satellite communications solutions and turnkey systems to US and international military, government and commercial customers. We offer a complete line of satellite communications products that include satellite phones and airtime, VSAT terminals and space segment, vehicular communications systems and turnkey mobile office solutions.

The satellite airtime that is mentioned above is purchased from several different airtime service providers at a previously negotiated price. The service provider charges the airtime to us after it is generated by an end-user, upon which a margin is added to the cost of the call. The end-user is then billed usually within one month after the airtime was billed to us. Among the items that we list on an invoice are the date of the call, the

destination phone number and country, the length and cost of the call, as well as the phone that was used if the customer owns more than one phone. Unfortunately, we are not able to determine where a call originated because a signal is transmitted through a satellite that orbits around the earth rather than a cell tower that is affixed to the land.

If any additional information is required before a ruling can be made, please feel free to contact me.

DEPARTMENT'S RESPONSE

For information regarding the Illinois Telecommunications Excise Tax, we refer you to the Telecommunications Excise Tax Act, which is set forth at 35 ILCS 630/1 et seq.. The Department's regulations for this tax are found at 86 Ill. Adm. Code Part 495. The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 35 ILCS Sections 630/3 and 630/4. Telecommunications retailers collect tax from end users and remit it to the Department. See 86 Ill. Adm. Code 495.140.

"Telecommunications", in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll and wide area telephone service; private line services; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or similar facilities. See 35 ILCS 630/2(c).

For your information, we refer you to the Mobile Telecommunications Sourcing Conformity Act ("Act") which became effective in Illinois on August 1, 2002. The Act was passed for the purpose of implementing the federal Mobile Telecommunications Sourcing Act, codified at 4 U.S.C. Sections 116 through 126.

The Act applies to "any tax, charge, or fee levied by the State or a taxing jurisdiction within this State as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services, regardless of whether the tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee." Section 20(b) of the Act provides that "[a]ll charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider under this Act are authorized to be subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications services originate, terminate, or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services." "Place of primary use" means "the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be: (i) the residential street address or the primary business street address of the customer; and (ii) within the licensed service area of the home service provider."

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If

you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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